THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.6132 of 2007

Date:28.03.2007

Between:

B.Chinna Penchalaiah

.. PETITIONER

AND

The Election Authority & District Collector,
Nellore and others.

..RESPONDENTS

ORDER:

The petitioner is a member of the fourth respondent-Fishermen Cooperative Society. The term of the previous committee expired in July, 2005. Ever since then, it was under the administration of the person-in-charge. Two writ petitions came to be filed by the former President of the society, the fifth respondent herein, being W.P.Nos.3554 and 1477 of 2006, in a different context. The District Collector and Election Authority notified the election programme for the fourth respondent-society. The third respondent was appointed as an Election Officer. He received the final voters' list of the society and issued a notification, dated 21.03.2007, proposing to conduct the elections on 29.03.2007. The same is challenged in this writ petition, on several grounds.

Sri P.Sridhar Reddy, the learned counsel for the petitioner, submits that the procedure adopted by the respondents in finalizing the voters' list was totally defective and several ineligible persons have been included in the list. He further contends that the notification issued by the third respondent is contrary to Rule 22 (2) (b) (vi) of the A.P. Cooperative Societies Rules, 1964, (for

short 'the Rules') inasmuch as fifteen (15) clear days of time is not maintained.

The learned Government Pleader for Fisheries and Sri K.Rathangapani Reddy, the learned counsel for the fifth respondent, on the other hand, submit that the voters' list was finalized, after due verification not only by the Panchayat Secretary, but also the Mandal Revenue Officer. They contend that the election process commenced long back and for all practical purposes, the requirement under the provisions referred to above is complied with.

Though several contentions have been urged by the learned counsel for the petitioner as to the correctness and validity of the voters' list, this Court is not inclined to examine the same. It is not as if any new members have been added. The grievance of the petitioner is only as regards non-disqualification of some of the existing members. Having regard to the limited nature of the powers of a person-in-charge, he cannot be expected to remove the existing voters from the list, except in case of death or resignation.

Rule 22 of the Rules prescribes a detailed procedure for conducting elections to the managing committees of the societies commencing from preparation of voters' list to declaration of results. Sub-rule (2) provides for appointment of Election Officer by the election authority. It also stipulates the various steps to be followed in the matter of conducting elections. It is relevant to extract Rule 22 (2)(b) (vi) of the Rules, which reads as under:

> "After receipt of the final list of members eligible to vote from the society, the Election Officer shall verify the cases and satisfy himself that the list conforms to the criteria for eligibility to vote as laid down under the Act and Rules and fix the date of Poll giving a clear fifteen (15) days

election notice as prescribed in Form-I. The notice shall be signed by the Election Officer and bear the seal of the society."

It is evident that the Election Officer i.e. the third respondent herein must maintain clear fifteen (15) days between the date of notification and the date of polling. In the instant case, the notification was issued on 21.03.2007 and the polling is scheduled to take place on 29.03.2007. Further, all the steps i.e. submission of nomination, verification of the same, withdrawal and polling, if necessary, are to take place on the same day, are contrary to the provisions extracted above.

Though the petitioner contends that the election notification, as a whole, must be set aside, this court is of the view that the minor mistake that has crept in it, can be corrected with necessary directions.

For the foregoing reasons, the writ petition is partly allowed, directing that all other steps, except the polling, shall take place in accordance with the notification, dated 21.03.2007, but the polling shall take place on 05.04.2007. There shall be no order as to costs.

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28.03.2007

Note: Issue operative portion
by wire at party's costs.
(B/o)
kdl